



10-18-02

1647

Docket 17355 (BOT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TECH CENTER 1600/2900

OCT 22 2002

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Applicants: STEWARD, et al.,

Serial Number: 09/620,840

Filed: July 21, 2000

For: LEUCINE-BASED MOTIF AND
CLOSTRIDIAL NEUROTOXINS

Examiner: R.C. Hayes

Art Unit: 1647

Confirmation No. 4487

Irvine, California

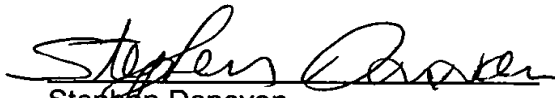
TRANSMITTAL LETTERAssistant Commissioner of Patents
Washington, D.C. 20231

Dear Sir:

Please find enclosed with regard to the above-identified pending U.S. patent application: (1) this 1 page Transmittal Letter, (2) a 2 page response to the September 27, 2002 Office Action in the above-identified patent application, (3) a Supplemental Information Disclosure Statement and (4) a return post card.

The Commissioner is hereby authorized to charge any fees required or necessary for the filing, processing or entering of this paper or any of the enclosed papers, and to credit any overpayment, to deposit account 01-0885.

Respectfully submitted,


Stephen Donovan
Registration Number 33,433Date: October 16, 2002

Please direct all correspondence to:
Allergan, Inc.
2525 Dupont Drive, T2-7H
Irvine, CA 92612
Tel: (714) 246-4026
Fax: (714) 246-4249

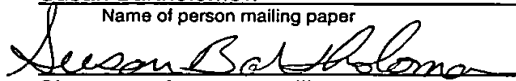
CERTIFICATE OF EXPRESS MAIL UNDER 37 C.F.R. §1.10

I hereby certify that this Transmittal Letter, the Response to the Office Action and the documents referred to as enclosed herein, are being deposited with the United States Postal Service on **October 16, 2002** in an envelope as "Express Mail Post Office To Addressee" mailing label number EL385560488US with sufficient postage for Express Mail addressed to Assistant Commissioner for Patents, Washington, DC 20231.

Date: October 16, 2002

Susan Bartholomew

Name of person mailing paper


Signature of person mailing paper



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RESPONSE TO OFFICE ACTION

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Dear Sir:

The September 27, 2002 Office Communication asked applicants to elect one of Group I (claims 1-31), Group II (claims 32-34), Group III (claims 35-39 and 41-42), Group IV (claims 35-39 and 41-42) and Group V (claims 35-39 and 43-43).

Applicants hereby elect Group I (claims 1-31) with traverse on the grounds that all of claims 1-43 are limited to either a modified neurotoxin comprising a biological persistence modifying component or a method of using such a modified neurotoxin, and hence a single search should suffice to search all the claims.


✓ Applicants hereby cancel the non-elected claims 32-43 without prejudice to further prosecution at a later date.

The Office Communication also asked applicants to elect one of the nine species (species a. to i. on page 4 of the Office Communication). Applicants hereby elect botulinum toxin type serotype A (species a) as the species.

Applicants traverse the requirement to elect one of the nine disclosed species on the grounds that since all the botulinum toxins are believed to

have a similar mechanism of action a single search should suffice to search all the claims. Thus, it is well known that "The botulinum toxins comprise a family of pharmacologically similar toxins that block acetylcholine release from peripheral nerves and cause a flaccid paralysis. All of the serotypes of toxin can poison humans and other animals...". Page 81, left hand side of Schantz, E.J., et al, *Properties and use of Botulinum toxin and Other Microbial Neurotoxins in Medicine*, Microbiol Rev. 56;80-99:1992 (copy enclosed with the attached Supplemental Disclosure Statement).

Respectfully submitted,


Stephen Donovan
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